



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

February 28, 2003

Becky Wren
U.S. Army Corps of Engineers
Sacramento District, Attn: CESPK-PD-R
1325 J Street
Sacramento, CA 95814

Dear Ms. Wren:

The Environmental Protection Agency (EPA) has reviewed the Notice of Intent (NOI) to prepare a Draft Environmental Impact Statement (DEIS) for North Delta Improvements Project. Our review is pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

The Corps of Engineers (Corps) and the California Department of Water Resources (DWR) are considering several potential actions to improve flood control and restore habitat in the North Sacramento-San Joaquin Delta area. The NOI identifies several possible actions to be evaluated in the General Re-evaluation Report/Environmental Impact Statement (GRR/EIS) including flood detention areas, parallel levee bypasses, setback levees, bridge replacement, and maintenance dredging. Alternatives are scheduled to be better defined through the scoping process. EPA recommends that the DEIS examine a range of alternatives, including non-structural measures, to meet the flood damage reduction and restoration goals of the project.

We appreciate the opportunity to review this NOI. Our attached comments provide further information on issues to consider in preparing the DEIS. Please send three (3) copies of the DEIS to this office at the same time it is officially filed with our HQ Office of Federal Activities. If you have any questions, please call me at (415) 972-3851.

Sincerely,

A handwritten signature in black ink, reading "Shanna W. Draheim", is written over a horizontal line.

Shanna W. Draheim
NEPA Reviewer

cc: Gwen Knittweis, California Department of Water Resources
Donna Garcia, Bureau of Reclamation, Mid-Pacific Region
Dan Meier, Bureau of Reclamation, Mid-Pacific Region

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Purpose and Need for the Proposed Action

We recommend the Draft Environmental Impact Statement (DEIS) for the North Delta Improvements Project (NDIP) include a clear description of the basic project purpose and need. The DEIS should clearly state what *needs* the Corps is responding to in this action (i.e. degradation of the hydrogeomorphic system, significant flood damage, loss of significant habitat, threats/damage to cultural resources, erosion). A clearly defined purpose and need will help identify the best range of alternatives to be considered.

Information on baseline conditions for relevant resources in the watershed is a critical step in defining the purpose and need. The DEIS should clearly describe existing conditions, including information on existing management systems, surface water quality, hydrogeomorphic functions, biological resources, cultural resources, and recreational opportunities. Discuss the extent to which water quality and sensitive or unique habitats, if any, can be protected and improved. The DEIS should thoroughly discuss the project's relationship to the state-federal CALFED Bay-Delta Program (CALFED).

Alternatives

The Notice of Intent (NOI) lists several measures the Corps is considering to meet the project goals, including flood detention areas, parallel levee bypasses, setback levees, bridge replacement, and maintenance dredging. EPA strongly recommends that the DEIS also examine alternatives which employ non-structural measures to meet the flood damage reduction and ecosystem restoration goals of the project, and would compliment the various natural and cultural resources of the project area. To this end, EPA encourages the Corps to take a system-wide approach to developing solutions. For each of the alternatives, the DEIS should:

- Address the possibilities for enhancement of fish and wildlife habitat along the riparian corridor;
- Reflect awareness that not all recreational and cultural activities are compatible with restoration of terrestrial and aquatic habitats. The DEIS should outline strategies for reducing human impacts in restoration and sensitive habitat areas;
- Identify opportunities for improving geomorphic conditions in the watershed; and
- Protect water quality and beneficial uses.

Environmental Impacts

The DEIS should identify potential impacts to the environment from any proposed actions and potential mitigation for these impacts. The evaluation of environmental impacts among alternatives should be presented in comparative form, thus sharply defining the issues and

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providing a clear basis for choice among options for the decision maker and the public (40 CFR 1502.14).

In addition to direct impacts, the National Environmental Policy Act (NEPA) also requires evaluation of indirect and cumulative effects which are caused by the action (40 CFR 1508.8(b) and 1508.7). This includes consideration of impacts from other capital projects in the watershed, including the Delta Cross Channel and the through-Delta facility on the Sacramento River. CEQ regulations also state that the EIS should include the "means to mitigate adverse environmental effects." (40 CFR 1502.16(h)). This provision applies to indirect and cumulative effects, as well as direct effects.

The NOI states that components of the Delta Cross Channel and the through-Delta facility on the Sacramento River, which are also identified in the CALFED Record of Decision, will not be addressed through the NDIP. While the NDIP is separate from these projects, the DEIS should still consider the impacts of changes at the Delta Cross Channel or the proposed Through Delta Facility on the success of the NDIP. While the flood control portions of those projects may not impact the NDIP because those facilities could be closed during flood conditions, changes in flow through the Delta Cross Channel and the through-Delta facility could affect NDIP's ecosystem restoration efforts. The DEIS should thoroughly discuss the relationship of these projects, and the potential direct, indirect, and cumulative impacts of the NDIP in conjunction with these other planned projects.

Wetlands/Clean Water Act (CWA) Section 404:

The DEIS should identify potential impacts to wetlands and other aquatic resources protected under the CWA Section 404, including requirements and any compliance measures. EPA will review the proposed action for compliance with the Federal Guidelines for Specification of Disposal Sites for Dredged or Fill Materials (40 CFR 230) [Guidelines], promulgated pursuant to Section 404(b)(1) of the CWA, which require that no discharge of dredged or fill material can be permitted if there is a practicable alternative that is less damaging to the aquatic environment.

Environmental Justice

In keeping with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (EO 12898), the EIS should describe the measures taken by the Corps to: 1) fully analyze the environmental effects of the proposed Federal action on minority communities, and 2) present opportunities for affected communities to provide input into the NEPA process. The intent and requirements of EO 12898 are clearly illustrated in the President's February 11, 1994 Memorandum for the Heads of all Departments and Agencies.